



Making Connections That Make a Difference.

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July 03, 2001

VIA OVERNIGHT MAIL

Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

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Re: Ex Parte Presentation in CC Docket No. 96-98

Dear Ms. Salas:

Pursuant to 47 CFR 1.1206 of the Commission's Rules, Broadview Networks, Inc. ("Broadview") hereby presents the following position related to unbundled local switching, referenced as "UNE-P" as part of the Commission's ongoing investigation in CC Docket No. 96-98.

Broadview believes strongly that the desired goal of the Telecommunications Act of 1996 is to facilitate competition that is primarily facilities-based in nature. While it may be ultimately desirable to have facilities-based carriers that are completely independent of the ILECs network elements, that reality is years, or possibly decades, away. In spite of this, carriers must make every effort to continue deploying their own network elements to access the ILEC's unbundled local loops.

Until these networks can be built, however, CLECs need an economically efficient option to serve customers ubiquitously through their chosen service territory. Broadview believes that there is a middle ground between removing local switching from the list of required UNEs and using UNE-P as an end strategy. That is, UNE-P can act as an effective part of a facilities-based migration strategy allowing carriers to gain market share in advance of deploying costly network equipment.

In support of this position, Broadview proposes the following rule for the Commission's consideration.

No UNE-P restrictions (i.e., lines size, geographic area or class of service) for business or residential lines will apply to CLECs when the following conditions are met. For purposes of this proposal, a line ("Access Line") is defined as a voice grade equivalent facility provisioned for local dialtone service.

- (a) The ILEC has met all requirements associated with switch activation, interconnection trunking and collocation provisioning, thereby allowing the CLEC to access Unbundled Local Loops. Access Lines not made available for UNE-L migrations due to ILEC failure to turn up requisite facilities will be excluded from the CLEC's UNE-L commitment until such time as the facilities are made ready.
- (b) The CLEC is actively migrating UNE-P customers to UNE-L or other facilities-based services. "Actively Migrating" defined as constantly having less than 50% of the CLEC's Access Lines served by UNE-P. The 50% threshold is calculated by dividing the total number of access lines served by UNE-P divided by the total number of access lines served across the ILEC's region.

The 50% threshold recognizes factors related to migrating lines to various facilities-based offerings. First and foremost, all lines are not available for UNE-L deployment (e.g., loops served by IDLC). Examples of additional facilities based offerings may include a CLEC's own fiber loops or wireless technologies.

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- (c) New Markets – Access lines will not count towards a CLEC's facilities-based commitment in a new market until 18 months after the CLEC signs up its first customer in that market/LATA.

This allows carriers to enter new markets quickly while gaining a customer base via UNE-P. Once a critical mass is achieved, the CLEC can begin the process of installing network elements. During this time, the CLEC will likely have all lines on UNE-P since it generally takes 12 months to install and activate a switch and associated interoffice transport and collocations. Another 6 months is needed to do the actual migrations to facilities-based service offerings.

- (d) If a CLEC has more than 50% of its access lines served via UNE-P, all non-facilities based lines will be rated at Total Service Resale rates.
- (e) The ILEC may audit the CLEC to ensure compliance with the 50% threshold.
- (f) Phase In Period for existing UNE-P Carriers – CLECs that are currently serving a large percentage of their customer base via UNE-P will be able to ramp up to the threshold based on the following schedule:

No more than 75% of lines on UNE-P	12 months
No more than 50% of lines on UNE-L	18 months

The phase in period takes account of the fact that building collocations and turning up switches generally takes 9-12 months. Additional time maybe needed to institutionalize the facilities-based migration process internally and to do the actual migrations.

Broadview firmly believes that this compromise position will enhance the competitive nature of the local telecommunications market and ultimately bring the fruits of competition to more consumers. It is not in the best interest of the consumers to create a permanent UNE-P "parking lot" where CLECs may do little more than repackage the ILECs services. Nor is it in good policy to remove a legitimate migration strategy that allows CLEC's to ultimately reach the goal of facilities-based service offerings. . Pricing and technical innovations begin at the carriers own switch, not at the ILEC's. Under Broadview's proposal, carriers that are willing to invest in and advance the cause of facilities-based competition will be able to continue to do so without abusing the economics of UNE-P.

Thank you for your attention to this correspondence. Broadview looks forward to discussing this position and makes itself ready to do so at Commission's request. Pursuant to the Commission's rules, an original and one (1) copy of this letter and are provided. Please date stamp and return the additional copy of this filing for our records.

Sincerely,



Steven C. Andreassi
Managing Director – Regulatory Affairs
Broadview Networks, Inc.

cc: Dorothy Attwood, Chief - Common Carrier Bureau
Michele Carey, Chief - Policy and Program Planning Division
Jon Reel, Attorney Advisor